

DOCKET NO.: IVOO-0144
Application No.: 09/684,442
Office Action Dated: October 25, 2004

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116

REMARKS

Claims 1-37 have been canceled and claims 38-67 have been added in the present amendment. In summary of the outstanding Office Action, claims 1-8, 10-21, 23, 26 and 27 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 5,959,945 (Kleiman) in view of U.S. Patent No. 5,969,283 (Looney).

Reconsideration of the outstanding rejections is respectfully requested in view of the present amendments and following remarks.

Rejections under 35 USC § 103(a)

Claims 1-8, 10-21, 23, 26 and 27 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Kleiman in view of Looney.

Claims 1-8, 10-21, 23, 26 and 27 have been canceled without prejudice.

With respect to elements newly added claim 38 may arguably share in common with rejected claim 1, the Office Action admits that "Kleiman fails to explicitly disclose that his central controller is for verifying when a pre-selected music selection has been made available." The Office Action, however, alleges that this element is disclosed in Looney. First, new claim 38 states there is a mechanism "...to verify to the controller system when a pre-selected music content item has been recorded at the consumer location," (emphasis added) as opposed to, as the Office Action states, the music content item just being made available. Second, Looney merely describes songs or CD's that include a special code keyed to the user's system code so that "only the user's system can load the songs on its hard drive" (col. 2, lines 53-54). Applicants submit that this does not equate to verifying to the controller system when a pre-selected music content item has been recorded at the consumer location.

Regarding new claims 39-67, with respect to elements related to "verifying...when a pre-selected music content item has been recorded at the consumer location" that claims 39-67 may share in common with new claim 38, all the limitations of claims 39-67 are not taught or suggested by Kleiman or Looney for the same reasons presented above. Therefore, Applicants submit that claims 38-67 of the application are in condition for allowance.

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CONCLUSION

Applicants believe that the present reply is responsive to each point raised by the Examiner in the Office Action and Applicants submit that claims 38-67 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited. However, should the Examiner find the claims as presented herein to not be allowable for any reason, Applicants' undersigned representative earnestly requests a telephone conference at (206) 332-1392 with both the Examiner and the Examiner's Supervisor to discuss the basis for the Examiner's continued rejection in light of the Applicant's arguments presented herein. Specifically, should the Examiner find the claims presented herein not to be allowable, Applicant's undersigned representative would respectfully request the Examiner to point Applicants to the column and line numbers in Kleiman or Looney where they describe verifying to the controller system when a pre-selected music content item has been recorded at the consumer location. Likewise, should the Examiner have any questions, comments, or suggestions that would expedite the prosecution of the present case to allowance, Applicants' undersigned representative would very much appreciate a telephone conference to discuss these issues.

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Jeremiah J. Baunach
Registration No. 44,527

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439